

1 **SUSAN K. HATMAKER 172543**  
2 **RACHELLE TAYLOR GOLEN 295385**  
3 **HATMAKER LAW GROUP**  
4 A Professional Corporation  
5 7522 N. Colonial Avenue, Suite 105  
Fresno, California 93711  
Telephone: (559) 374-0077  
Facsimile: (559) 374-0078

6 ATTORNEYS FOR Defendant:  
5561 SULTANA, LLC

7 UNITED STATES DISTRICT COURT

8 EASTERN DISTRICT OF CALIFORNIA

9 \* \* \*

10 

11 GEORGE AVALOS, an individual	)	NO. 1:20-cv-01383-NONE-BAM
12 Plaintiff,	)	<b>DEFENDANT, 5561 SULTANA,</b>
13 vs.	)	<b>LLC'S, NOTICE OF MOTION AND</b>
14 5561 SULTANA, LLC a California	)	<b>MOTION TO DISMISS UNDER</b>
15 limited liability company; and DOES 1-	)	<b>F.R.C.P. RULE 12(b)(6) AS TO</b>
16 10, inclusive	)	<b>PLAINTIFF'S COMPLAINT</b>
17 Defendants.	)	Date: January 8, 2021
	)	Time: 9:00 a.m.
	)	Courtroom: 8, 6 <sup>th</sup> Floor
	)	Judge: Magistrate Barbara A. McAuliffe
	)	
	)	
	)	
	)	
	)	
	)	

18  
19  
20  
21  
22

23 PLEASE TAKE NOTICE that, on January 8, 2021, at 9:00 a.m., before Magistrate  
24 Barbara A. McAuliffe, Defendant, 5561 SULTANA, LLC (hereinafter "Defendant"), will move  
25 for a Motion to Dismiss Plaintiff's Complaint pursuant to Federal Rule of Civil Procedure  
26 12(b)(6) because a facial reading of Plaintiff's Complaint fails to state a claim for which relief  
27 can be granted because Plaintiff has failed to allege any facts that ties the alleged barrier(s)  
28 encountered to any particular disability that he allegedly suffers.

1           As Plaintiff is a serial litigant and should have a reasonable grasp of the applicable  
2 pleading requirements as well as the law under the Americans with Disabilities Act and the  
3 California Unruh Civil Rights Act and has filed the Complaint without good faith, Defendant  
4 further requests that should this Motion be granted, it be awarded prevailing party attorneys'  
5 fees pursuant to 28 U.S.C. § 1927 and/or 42 U.S.C. § 12205. (*Peters v. Winco Foods, Inc.* (Cal.  
6 E.D. 2004) 320 F.Supp.2d 1035.)

7           The grounds for this Motion are set forth in: 1) this Notice of Motion and Motion; 2) the  
8 Memorandum of Points and Authorities in support of this Motion; 3) the Request for Judicial  
9 Notice; and 4) all Exhibits thereto.

10 DATED: December 7, 2020

HATMAKER LAW GROUP

11 By /s/ Rachelle Taylor Golden

12           RACHELLE TAYLOR GOLDEN  
13           Attorney for Defendant,  
14           5561 SULTANA LLC

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

I am employed in the County of Fresno, California; I am over the age of eighteen years and not a party to the within cause; my business address is: 7522 N. Colonial Avenue, Fresno, CA 93711.

On December 7, 2020, I served the foregoing document(s) described as:

**DEFENDANT, 5561 SULTANA, LLC'S, NOTICE OF MOTION AND MOTION TO DISMISS UNDER F.R.C.P. RULE 12(b)(6)**

on all interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

MANNING LAW, APC  
Joseph R. Manning, Jr.  
20062 SW Birch Street, Ste. 200  
Newport Beach, CA 92660  
Ph: (949) 200-8755

Email:  
[DisabilityRights@manninglawoffice.com](mailto:DisabilityRights@manninglawoffice.com)  
Attorneys for Plaintiff, George Avalos

\_\_\_\_ (By U.S. Mail) I caused each envelope, with postage fully prepaid, to be placed in the designated area for outgoing mail in accordance with this office's practice, whereby mail is deposited in a U.S. mailbox in the City of Fresno, California after the close of the day's business.

\_\_\_\_ (By Facsimile) I caused this document to be delivered via facsimile to the numbers set forth below.

X (By Electronic Service) - I caused a true and correct copy of the document(s) described above to be uploaded to the Court approved case management system, and served electronically to all parties listed above.

I declare under penalty of perjury under the law of the State of California that the foregoing is true and correct. Executed on December 7, 2020, at Fresno, California.

By: /s/ Rachelle Taylor Golden  
RACHELLE TAYLOR GOLDEN